IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
MONDAY, THE FOURTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE MR JUSTICE A.GOPAL REDDY
WRIT PETITION NO : 11419 of 1999

Between:
APSRTC., Rep. by its Managing Director, Mishirabad, Hyderabad.

..... PETITIONER

AND

1. State Transport Appellate Tribunal, A.P., Hyderabad, Rep. by its Presiding Officer.
2. Regional Transport Authority, East Godavari District, Rep. by its Secretary at Kakinada.
3. Smt.M.Vijayalakshmi, W/o.Balakrishna Sai, D.No.29-7-16, Lakshmivarapupeta, Rajahmundry, East Godavari District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction, especially in the nature of a writ of certiorari, calling for the records relating to the impugned order dated 22-2-1999 made in AP.No.387/98, State Transport Appellate Tribunal, A.P., Hyderabad setting aside the order in R.No.10519/A1/96, dated 11-03-1997 of the Regional Transport Authority, East Godavari at Kakinada and directing issue of a stage carriage permit to third respondent to ply as town service on the route, Anandnagar, Rajahmundry to All Bank Colony and quash the same as being illegal, without jurisdiction and invalid, and pass such other and further orders to meet the ends of justice.

Counsel for the Petitioner: MR.K.Srinivas Rao

Counsel for the Respondents 1 and 2: G.P. FOR TRANSPORT.

Counsel for respondent No.3: None appeared.
The Court made the following Order:

Andhra Pradesh State Road Transport Corporation obtained a rule from this Court asking the respondents to show cause as to why a writ in the nature of Certiorari should not be issued under Article 226 of the Constitution of India and for calling the record relating to the impugned order dated 22-02-1999 passed by the first respondent-State Transport Appellate Tribunal in A.P.No.387 of 1998 setting aside the order dated 11-03-1997 passed by the second respondent-Regional Transport Authority, East Godavari in R.No.10519/A1/96 and directing to issue stage carriage permit to the third respondent to ply as town service on the route, Anandanagar, Rajahmundry to All Bank Colony.

The case of the petitioner is that the third respondent made an application to the second respondent for grant of a pucca stage carriage permit to ply as town service on the route, Anandnagar, Rajahmundry to All Bank Colony (via) Rajiv Gandhi Degree College, A.P.P. Mills, Seethampet, Sivajyothi Theatre, G.B.Stand, Devi Chowk, Jampeta, Church Gate, Deluxe Centre, Kotipalli Bus Stand, V.T. College Stadium, R.T.C. Complex, V.L. Puram, Morampudi Junction, Bucheyyanagaram Junction. The second respondent rejected the application on the ground that it was prohibited by the approved scheme in G.O.Ms.No.761 of 1975, which does not allow any overlapping. Aggrieved by the same, the third respondent filed an appeal before the first respondent in A.P.No.387 of 1998, which allowed the appeal holding that there is no overlapping at all, since the notified route from Kotipally to Rajahmundry

is only upto Kotipally bus stand and directed the Secretary, R.T.A. to issue stage carriage permit to the third respondent. Assailing the correctness of the above, the present writ petition is filed contending that the route is not formulated by the State Government as contemplated under Section 68(3)(ca) of the Motor Vehicles Act, 1988 (for short 'the Act'). Hence, the grant of permit is illegal.

Head the learned Counsel for the petitioner. None appeared for the third respondent in spite of service of notice.

The only point that was urged by the learned Counsel for the petitioner is that the third respondent made an application for grant of a pucca Stage carriage permit to ply as town service on the route, Anandnagar, Rajahmundry, to All Bank Colony (via) Rajiv Gandhi Degree College, A.P.P. Mills, Seethampet, Sivajyothi Theatre, G.B.Stand, Devi Chowk, Jampeta, Church Gate, Deluxe Centre, Kotipalli Bus Stand, V.T. College Stadium, R.T.C. Complex, V.L. Puram, Morampudi Junction, Bucheyyanagaram Junction and unless the said route is formulated by the Government under Section 68(3)(ca) of the Act, the Regional Transport Authority will not get jurisdiction to consider the said application for grant of permit, which missed the attention of the appellate Tribunal.

This Court in **APSRTC, Musheerabad, Hyderabad v. State Transport Appellate Tribunal, Hyderabad**[1] categorically held that unless the route is formulated as contemplated under Section 68(3)(ca) of the Act, no permit can be granted by the Regional Transport Authority. The said judgment was affirmed by a Division Bench of this

Court in **N.Swarnalatha v. Managing Director, APSRTC, Hyderabad**[2].

Having regard to the fact that unless the route is formulated by the Government under Section 68(3)(ca) of the Act, the Regional Transport Authority will not get jurisdiction to consider the application and in view of the above judgments, as the order passed by the first respondent suffers from legal infirmities, the same cannot be sustained.

Accordingly, the writ petition is allowed and the impugned order is set aside. No costs.

The Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this the fourteenth day of June Two Thousand and Four.

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ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Presiding Officer, State Transport Appellate Tribunal, A.P., Hyderabad,
2. The Secretary, Regional Transport Authority, E.G. Kakinada.
3. Two C.Cs to the G.P. for Transport, High Court Buildings, Hyderabad (OUT)

4. Two C.D. Copies.

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[1] 1999(2) ALD 60

[2] 2001 (4) ALD 257 (DB)